

# Senate Study Bill 1064 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

## A BILL FOR

1 An Act relating to operating-while-intoxicated offenses,  
2 including temporary restricted licenses and ignition  
3 interlock devices, providing penalties, making penalties  
4 applicable, and including effective date and applicability  
5 provisions.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.2, subsection 3, paragraph d, Code  
2 2023, is amended to read as follows:

3 d. Revocation of the person's driver's license for a minimum  
4 period of one hundred eighty days up to a maximum revocation  
5 period of one year, pursuant to section 321J.4, subsection  
6 1, [section 321J.9](#), or [section 321J.12](#). The department shall  
7 require the defendant to install an ignition interlock device  
8 of a type approved by the commissioner of public safety on all  
9 vehicles operated by the defendant if the defendant seeks a  
10 temporary restricted license as provided in section 321J.20 or  
11 as a condition of reinstatement as provided in section 321J.17.

12 Sec. 2. Section 321J.4, subsections 1, 2, 3, and 4, Code  
13 2023, are amended to read as follows:

14 1. If a defendant is convicted of a violation of section  
15 321J.2 and the defendant's driver's license or nonresident  
16 operating privilege has not been revoked under [section 321J.9](#)  
17 or [321J.12](#) for the occurrence from which the arrest arose, the  
18 department shall revoke the defendant's driver's license or  
19 nonresident operating privilege for one hundred eighty days  
20 if the defendant submitted to chemical testing and has had  
21 no previous conviction or revocation under [this chapter](#) and  
22 shall revoke the defendant's driver's license or nonresident  
23 operating privilege for one year if the defendant refused to  
24 submit to chemical testing and has had no previous conviction  
25 or revocation under [this chapter](#). The department shall require  
26 the defendant to install an ignition interlock device of a type  
27 approved by the commissioner of public safety on all vehicles  
28 operated by the defendant if the defendant seeks a temporary  
29 restricted license as provided in section 321J.20 or as a  
30 condition of reinstatement as provided in section 321J.17.

31 2. If a defendant is convicted of a violation of section  
32 321J.2, and the defendant's driver's license or nonresident  
33 operating privilege has not already been revoked under section  
34 321J.9 or [321J.12](#) for the occurrence from which the arrest  
35 arose, the department shall revoke the defendant's driver's

1 license or nonresident operating privilege for one year if the  
2 defendant submitted to chemical testing and has had a previous  
3 conviction or revocation under [this chapter](#) and shall revoke  
4 the defendant's driver's license or nonresident operating  
5 privilege for two years if the defendant refused to submit  
6 to chemical testing and has had a previous revocation under  
7 this chapter. The department shall require the defendant to  
8 install an ignition interlock device of a type approved by the  
9 commissioner of public safety on all vehicles owned or operated  
10 by the defendant if the defendant seeks a temporary restricted  
11 license as provided in section 321J.20 or as a condition of  
12 reinstatement as provided in section 321J.17. A temporary  
13 restricted license shall not be granted and a driver's license  
14 shall not be reinstated by the department until the defendant  
15 installs the ignition interlock device.

16 3. If the court defers judgment pursuant to [section 907.3](#)  
17 for a violation of [section 321J.2](#), and if the defendant's  
18 driver's license or nonresident operating privilege has not  
19 been revoked under [section 321J.9](#) or [321J.12](#), or has not  
20 otherwise been revoked for the occurrence from which the arrest  
21 arose, the department shall revoke the defendant's driver's  
22 license or nonresident operating privilege for a period of  
23 not less than thirty days nor more than ninety days. The  
24 department shall require the defendant to install an ignition  
25 interlock device of a type approved by the commissioner of  
26 public safety on all vehicles operated by the defendant if the  
27 defendant seeks a temporary restricted license as provided in  
28 section 321J.20 or as a condition of reinstatement as provided  
29 in section 321J.17.

30 4. Upon a plea or verdict of guilty of a third or subsequent  
31 violation of [section 321J.2](#), the department shall revoke the  
32 defendant's driver's license or nonresident operating privilege  
33 for a period of six years. The department shall require the  
34 defendant to install an ignition interlock device of a type  
35 approved by the commissioner of public safety on all vehicles

1 owned or operated by the defendant if the defendant seeks a  
2 temporary restricted license as provided in section 321J.20 or  
3 as a condition of reinstatement as provided in section 321J.17.

4 A temporary restricted license shall not be granted and a  
5 driver's license shall not be reinstated by the department  
6 until the defendant installs the ignition interlock device.

7 Sec. 3. Section 321J.4, subsection 8, paragraphs b and c,  
8 Code 2023, are amended to read as follows:

9 b. The commissioner of public safety shall adopt rules to  
10 approve certain ignition interlock devices ~~and the~~. The rules  
11 shall establish all of the following:

12 (1) The means of installation of the devices, ~~and shall~~  
13 ~~establish the.~~

14 (2) The level of alcohol concentration beyond which an  
15 ignition interlock device will not allow operation of the motor  
16 vehicle in which it is installed.

17 (3) The camera and photograph requirements provided under  
18 section 321J.20, subsection 7B.

19 c. The order to install ignition interlock devices shall  
20 remain in effect for a period of time as determined by the  
21 court which shall not exceed the maximum term of imprisonment  
22 which the court could have imposed according to the nature of  
23 the violation, unless otherwise extended under this chapter.  
24 While the order is in effect, the defendant shall not operate  
25 a motor vehicle which does not have an approved ignition  
26 interlock device installed.

27 Sec. 4. Section 321J.9, subsection 2, Code 2023, is amended  
28 to read as follows:

29 2. The department shall require the defendant to install  
30 an ignition interlock device of a type approved by the  
31 commissioner of public safety on all vehicles owned or  
32 operated by the defendant if the defendant seeks a temporary  
33 restricted license under section 321J.20 or as a condition of  
34 reinstatement as provided in section 321J.17. However, if  
35 the defendant has had no previous conviction or revocation

1 under this chapter, the department shall only require the  
2 defendant to install an approved ignition interlock device on  
3 all vehicles operated by the defendant if the defendant seeks  
4 a temporary restricted license under section 321J.20 or as a  
5 condition of reinstatement as provided in section 321J.17.  
6 A temporary restricted license shall not be granted and a  
7 driver's license shall not be reinstated by the department  
8 until the defendant installs the ignition interlock device.

9 Sec. 5. Section 321J.12, subsection 2, Code 2023, is amended  
10 to read as follows:

11 2. The department shall require the defendant to install  
12 an ignition interlock device of a type approved by the  
13 commissioner of public safety on all vehicles owned or  
14 operated by the defendant if the defendant seeks a temporary  
15 restricted license under section 321J.20 or as a condition of  
16 reinstatement as provided in section 321J.17. However, if  
17 the defendant has had no previous conviction or revocation  
18 under this chapter, the department shall only require the  
19 defendant to install an approved ignition interlock device on  
20 all vehicles operated by the defendant if the defendant seeks  
21 a temporary restricted license under section 321J.20 or as a  
22 condition of reinstatement as provided in section 321J.17.  
23 A temporary restricted license shall not be granted and a  
24 driver's license shall not be reinstated by the department  
25 until the defendant installs the ignition interlock device.

26 Sec. 6. Section 321J.17, subsection 3, Code 2023, is amended  
27 to read as follows:

28 3. a. The department shall also require certification of  
29 installation of an ignition interlock device of a type approved  
30 by the commissioner of public safety on all of the following  
31 motor vehicles:

32 (1) All motor vehicles operated by a person seeking  
33 reinstatement if the person has had no previous conviction or  
34 revocation under this chapter.

35 (2) All motor vehicles owned or operated by any a person

1 seeking reinstatement following a second or subsequent  
2 revocation under section 321J.4, 321J.9, or 321J.12 this  
3 chapter. The

4 b. Unless otherwise extended under this chapter, the  
5 requirement for the installation of an approved ignition  
6 interlock device shall be for ~~one year from the date of~~  
7 ~~reinstatement unless a longer time period is required by~~  
8 ~~statute.~~ one of the following periods of time, as applicable:

9 (1) One hundred eighty days from the date of reinstatement  
10 if the person is not subject to subparagraph (2).

11 (2) One year from the date of reinstatement if the person  
12 has had a previous revocation under this chapter, or if the  
13 person is seeking reinstatement following a revocation under  
14 section 321J.4, subsection 5 or 6, regardless of whether the  
15 person has had a previous revocation under this chapter.

16 c. The ~~one-year~~ period of time a person is required to  
17 maintain an ignition interlock device under this subsection  
18 shall be reduced by any period of time the person held a  
19 valid temporary restricted license during the period of the  
20 revocation for the occurrence from which the arrest arose. The

21 d. The period of time a person is required to maintain  
22 an ignition interlock device under this subsection shall be  
23 increased if required in accordance with the compliance-based  
24 removal procedures provided in section 321J.17A.

25 e. A person shall not operate any motor vehicle which  
26 is not equipped with an approved ignition interlock device  
27 during the period in which an ignition interlock device must be  
28 maintained, and the department shall not grant reinstatement  
29 unless the person certifies installation of an ignition  
30 interlock device as required in this subsection. In addition  
31 to other penalties provided by law, the department shall revoke  
32 the driver's license of a person who is required to maintain  
33 an ignition interlock device if the person operates a motor  
34 vehicle which does not have an approved ignition interlock  
35 device or removes the ignition interlock device without

1 authorization.

2 f. This subsection does not apply to a person who has had  
3 no previous conviction or revocation under this chapter if  
4 the person receives an exemption from the department because  
5 the person does not own or have access to a motor vehicle.  
6 The person shall file a declaration to that effect with the  
7 department, on a form prescribed by the department, which must  
8 be approved by the department prior to the exemption being  
9 granted.

10 g. The department shall adopt rules pursuant to chapter 17A  
11 to implement this subsection.

12 Sec. 7. NEW SECTION. 321J.17A Compliance-based removal.

13 1. If an ignition interlock device detects a violation by  
14 a person during the ninety-day period immediately preceding  
15 the date on which the period of time a person is required to  
16 maintain an ignition interlock device under section 321J.17  
17 ends, the period of time a person is required to maintain  
18 an ignition interlock device under section 321J.17 shall be  
19 extended until the person completes ninety consecutive days  
20 without a violation detected by an ignition interlock device,  
21 as determined by the department based on an approved ignition  
22 interlock device provider's compliance report submitted in  
23 accordance with this section. Nothing in this section shall  
24 limit the number of subsequent extensions a person may receive  
25 following a violation detected by an ignition interlock device.

26 2. a. An approved ignition interlock device provider shall  
27 generate and submit a compliance report to the department for  
28 each person who maintains an ignition interlock device of the  
29 provider for purposes of meeting the requirements of section  
30 321J.17. The compliance report must indicate every associated  
31 motor vehicle and the associated ignition interlock device  
32 installed on each motor vehicle. The compliance report must  
33 include all of the following details, as applicable:

34 (1) If an ignition interlock device detected a violation,  
35 the date and type of violation.

1       (2) If an ignition interlock device detected no violations  
2 during the ninety days immediately preceding the report, the  
3 fact that no violations were detected.

4       *b.* An approved ignition interlock device provider shall  
5 generate the compliance report and submit it to the department  
6 no earlier than the date on which the period of time a person is  
7 required to maintain an ignition interlock device under section  
8 321J.17 ends, and no later than seven business days following  
9 that date. The provider shall again generate and submit a  
10 subsequent report to the department in this manner based on any  
11 subsequent extensions as provided in this section, if any.

12       3. *a.* For purposes of this section, a violation includes  
13 any of the following:

14       (1) Failing to provide a detectable breath sample to the  
15 ignition interlock device when prompted by the device.

16       (2) Providing a breath sample to an ignition interlock  
17 device with a level of alcohol concentration beyond which an  
18 ignition interlock device will not allow operation of the motor  
19 vehicle in which it is installed, pursuant to rules established  
20 by the department of public safety under section 321J.4,  
21 subsection 8.

22       (3) Removing without authorization, bypassing,  
23 circumventing, or tampering with the ignition interlock device,  
24 including any such attempt, detected by the device.

25       *b.* Notwithstanding paragraph "a", it is not a violation  
26 under this section if a person provides a detectable breath  
27 sample and successfully passes a test immediately following the  
28 first failed test or in response to a bypass or circumvention  
29 attempt as described in paragraph "a", and a violation shall not  
30 be reported.

31       4. The department shall adopt rules pursuant to chapter 17A  
32 prescribing the form and manner of communication pursuant to  
33 this section, and may otherwise adopt rules as necessary to  
34 administer this section.

35       Sec. 8. Section 321J.20, subsections 2, 3, and 7, Code 2023,



1 are amended to read as follows:

2     2. A temporary restricted license issued under [this section](#)  
3 shall not be issued until the applicant installs an approved  
4 ignition interlock device on all motor vehicles owned or  
5 operated by the applicant. However, if the applicant has  
6 had no previous conviction or revocation under [this chapter](#),  
7 a temporary restricted license issued under [this section](#)  
8 shall not be issued until the applicant installs an approved  
9 ignition interlock device on all motor vehicles operated by  
10 the applicant. Installation of an ignition interlock device  
11 under [this section](#) shall be required for the period of time  
12 for which the temporary restricted license is issued, and for  
13 such additional period of time following reinstatement as  
14 is required under [section 321J.17, subsection 3](#). However,  
15 ~~a person whose driver's license or nonresident operating~~  
16 ~~privilege has been revoked under [section 321J.21](#) may apply to~~  
17 ~~the department for a temporary restricted license without the~~  
18 ~~requirement of an ignition interlock device if at least twelve~~  
19 ~~years have elapsed since the end of the underlying revocation~~  
20 ~~period for a violation of [section 321J.2](#).~~

21     3. In addition to other penalties provided by law, a  
22 person's temporary restricted license shall be revoked if the  
23 person is required to install an ignition interlock device and  
24 the person ~~does any of the following~~:

25     ~~a. Operates~~ operates a motor vehicle which does not have  
26 an approved ignition interlock device or removes the ignition  
27 interlock device without authorization.

28     ~~b. Tamper with or circumvents an ignition interlock device.~~

29     7. A person who tampers with, removes without  
30 authorization, or circumvents an ignition interlock device  
31 installed as required in [this chapter](#) and while the requirement  
32 for the ignition interlock device is in effect commits a  
33 serious misdemeanor.

34     Sec. 9. Section 321J.20, Code 2023, is amended by adding the  
35 following new subsections:

1     NEW SUBSECTION.   7A.   A person who holds a temporary  
2 restricted license and who operates a motor vehicle without  
3 an ignition interlock device installed commits one of the  
4 following, as applicable:

5     *a.* For a first offense, a serious misdemeanor.

6     *b.* For a second offense, an aggravated misdemeanor.

7       c. For a third or subsequent offense, an aggravated  
8 misdemeanor with a minimum period of imprisonment in the county  
9 jail of forty-eight hours.

10     NEW SUBSECTION. 7B. An ignition interlock device shall  
11 be equipped with a camera that is only capable of taking a  
12 still image photograph when a breath sample is requested by the  
13 device, when a breath sample is provided, and when a failure to  
14 provide a breath sample occurs.

15       Sec. 10.   EFFECTIVE DATE.   This Act takes effect January 1,  
16 2024.

17      Sec. 11.    APPLICABILITY.

18 1. Except as provided in subsection 2, this Act applies to  
19 driver's license revocations under chapter 321J, as amended in  
20 this Act, for which the underlying offense occurred on or after  
21 the effective date of this Act.

22       2. The portion of the section of this Act enacting section  
23 321J.20, subsection 7B, applies to ignition interlock devices  
24 installed on or after the effective date of this Act.

25	EXPLANATION
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26 The inclusion of this explanation does not constitute agreement with  
27 the explanation's substance by the members of the general assembly.

28 Under current law, a person whose driver's license is  
29 revoked for operating while intoxicated (OWI) is required to  
30 install an ignition interlock device (IID) prior to being  
31 issued a temporary restricted license (TRL) by the department  
32 of transportation (DOT). The IID must be installed on every  
33 vehicle owned or operated by the person, or every vehicle  
34 operated by the person if the person has had no previous  
35 conviction or revocation under Code chapter 321J.

1 Current law also requires a person with a second or  
2 subsequent driver's license revocation for OWI to install an  
3 IID for a minimum of one year after reinstatement of a driver's  
4 license other than a TRL. The one-year period may be offset by  
5 any time a person had an IID installed on the person's vehicle  
6 while operating with a TRL.

7 This bill expands that provision. After reinstatement of a  
8 driver's license other than a TRL, a person with no previous  
9 revocation under Code chapter 321J must maintain an IID for 180  
10 days if the violation did not involve personal injury or death.  
11 If it did, the person with no previous revocation under Code  
12 chapter 321J is subject to the one-year IID requirement under  
13 current law. The bill allows an exemption for persons who do  
14 not own or have access to a motor vehicle.

15 These IID periods may be extended based on compliance-based  
16 removal (CBR) provisions. If an IID detects a violation by a  
17 person during the 90-day period immediately preceding the date  
18 on which the period of time a person is required to maintain  
19 an IID for driver's license reinstatement ends, the period of  
20 time is extended until the person completes 90 consecutive days  
21 without a violation, as determined by the DOT based on an IID  
22 provider's compliance report submitted in accordance with the  
23 bill. The IID provider must generate and submit the report to  
24 the DOT no earlier than the date on which the period of time  
25 a person is required to maintain an IID for driver's license  
26 reinstatement ends, and no later than seven business days  
27 following that date. The IID provider is required to generate  
28 and submit a subsequent report to the DOT in this manner based  
29 on any subsequent extensions, if any.

30 The bill does not limit the number of times an IID  
31 requirement for driver's license reinstatement for a person may  
32 be extended.

33 Under the bill, a violation includes failing to provide a  
34 detectable breath sample when prompted by the IID, providing  
35 a breath sample with a level of alcohol concentration beyond

1 which an IID will not allow operation of the motor vehicle, and  
2 removing without authorization, bypassing, circumventing, or  
3 tampering with the IID, including any such attempt, detected  
4 by the device. However, it is not a violation under CBR if a  
5 person provides a detectable breath sample and successfully  
6 passes a test immediately following the first failed test or in  
7 response to a bypass or circumvention attempt.

8 The bill adds a requirement that new IIDs contain a camera to  
9 take still photographs in circumstances set forth in the bill.

10 The bill strikes a provision allowing a person whose  
11 driver's license has been revoked under Code section 321J.21 to  
12 apply to the DOT for a TRL without the requirement of an IID if  
13 at least 12 years have elapsed since the end of the underlying  
14 revocation period for a violation of Code section 321J.2.

15 Under the bill, a person who removes an IID without  
16 authorization commits a serious misdemeanor. A serious  
17 misdemeanor is punishable by confinement for no more than one  
18 year and a fine of at least \$430 but not more than \$2,560.

19 The bill creates a new criminal offense for a person who  
20 has a TRL and who operates a motor vehicle without an IID  
21 installed. The penalties range from a serious misdemeanor  
22 (first offense) to an aggravated misdemeanor with a 48-hour  
23 minimum term of imprisonment in a county jail (third or  
24 subsequent offense). An aggravated misdemeanor is punishable  
25 by confinement for no more than two years and a fine of at least  
26 \$855 but not more than \$8,540.

27 The bill takes effect January 1, 2024, and sets forth  
28 applicability provisions.